

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE
AND THE
BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND
AMENDING, REPEALING AND RECREATING AND CREATING A RULE

The office of the commissioner of insurance and the board of governors of the patients compensation fund propose an order to amend s. Ins 17.01 (3), to repeal and recreate s. Ins 17.28 (6), and to create s. Ins 17.285 (14), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2003 and relating to establishing a rate of compensation for fund peer review council members and consultants.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3), 655.004, 655.275 (10), 655.27 (3) (b), and 655.61, Stats.

Statutes interpreted: s. 655.27 (3), Stats.

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to establish by administrative rule the annual fees which participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning July 1, 2003. These fees represent a 5% increase compared with fees paid for the 2002-03 fiscal year. The board approved these fees at its meeting on February 26, 2003, based on the recommendation of the board's actuarial and underwriting committee.

The board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the director of state courts. This rule implements the funding level recommendation of the board's actuarial and underwriting committee by establishing mediation panel fees for the next fiscal year at \$19.00 for physicians and \$1.00 per occupied bed for hospitals, representing no increase from 2002-03 fiscal year mediation panel fees.

This rule also creates s. Ins. 17.285 (14) that establishes a rate of compensation for fund peer review council members and consultants of \$250 per meeting attended or \$250 per report filed by consultant based on the consultant's review of a file.

FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Actuarial and accounting data necessary to establish PCF fees is first available in January of each year. It is not possible to complete the permanent fee rule process in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2003.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 03-039, will be filed with the secretary of state in time to take effect October 1, 2003. Because the fund fee provisions of this rule first apply on July 1, 2003, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 14, 2003.

SECTION 1. Ins 17.01 (3) is amended to read:

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, ~~2002~~ 2003:

(a) For physicians-- \$19.00

(b) For hospitals, per occupied bed-- \$1.00

SECTION 2. Ins 17.28 (6) is repealed and recreated to read:

Ins 17.28 (6) FEE SCHEDULE. The following fee schedule is in effect from July 1, 2003, to and including June 30, 2004:

(a) Except as provided in pars. (b) to (f) and sub. (6e), for a physician for whom this state is a principal place of practice:

Class 1	\$1,534	Class 3	\$6,366
Class 2	\$2,761	Class 4	\$9,204

(b) For a resident acting within the scope of a residency or fellowship program:

Class 1	\$ 767	Class 3	\$3,183
Class 2	\$1,381	Class 4	\$4,602

(c) For a resident practicing part-time outside the scope of a residency or fellowship program:

All classes	\$ 920
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(d) For a medical college of Wisconsin, inc., full-time faculty member:

Class 1	\$ 614	Class 3	\$2,548
Class 2	\$1,105	Class 4	\$3,684

(e) For a physician who practices fewer than 500 hours during the fiscal year, limited to office practice and nursing home and house calls, and who does not practice obstetrics or surgery or assist in surgical procedures: \$ 384

(f) For a physician for whom this state is not a principal place of practice:

Class 1	\$ 767	Class 3	\$3,183
Class 2	\$1,381	Class 4	\$4,602

(g) For a nurse anesthetist for whom this state is a principal place of practice: \$ 377

(h) For a nurse anesthetist for whom this state is not a principal place of practice: \$ 189

(i) For a hospital:

1. Per occupied bed \$ 92; plus

2. Per 100 outpatient visits during the last calendar year for which totals are available: \$4.60

(j) For a nursing home, as described under s. 655.002 (1) (j), Stats., which is wholly owned and operated by a hospital and which has health care liability insurance separate from that of the hospital by which it is owned and operated:

Per occupied bed \$ 17

(k) For a partnership comprised of physicians or nurse anesthetists, organized for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:

1. a. If the total number of partners and employed physicians and nurse anesthetists is from 2 to 10 \$ 53

b. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100 \$ 528

c. If the total number of partners and employed physicians and nurse anesthetists exceeds 100 \$1,319

2. The following fee for each of the following employees employed by the partnership as of July 1, 2003:

Employed Health Care Persons	July 1, 2003 Fund Fee
Nurse Practitioners	\$ 384
Advanced Nurse Practitioners	537
Nurse Midwives	3,375
Advanced Nurse Midwives	3,528

Advanced Practice Nurse Prescribers	537
Chiropractors	614
Dentists	307
Oral Surgeons	2,301
Podiatrists-Surgical	6,520
Optometrists	307
Physician Assistants	307

(L) For a corporation, including a service corporation, with more than one shareholder organized under ch. 180, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:

1. a. If the total number of shareholders and employed physicians and nurse anesthetists is from 2 to 10 \$ 53

b. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100 \$ 528

c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$1,319

2. The following for each of the following employees employed by the corporation as of July 1, 2003:

Employed Health Care Persons	July 1, 2003 Fund Fee
Nurse Practitioners	\$ 384
Advanced Nurse Practitioners	537
Nurse Midwives	3,375
Advanced Nurse Midwives	3,528
Advanced Practice Nurse Prescribers	537
Chiropractors	614
Dentists	307
Oral Surgeons	2,301
Podiatrists-Surgical	6,520

Optometrists 307

Physician Assistants 307

(m) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:

1. a. If the total number of employed physicians and nurse anesthetists is from 1 to 10 \$ 53

b. If the total number of employed physicians and nurse anesthetists is from 11 to 100 \$ 528

c. If the total number of employed physicians or nurse anesthetists exceeds 100 \$1,319

2. The following for each of the following employees employed by the corporation as of July 1, 2003:

Employed Health Care Persons	July 1, 2003 Fund Fee
Nurse Practitioners	\$ 384
Advanced Nurse Practitioners	537
Nurse Midwives	3,375
Advanced Nurse Midwives	3,528
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Chiropractors	614
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Podiatrists-Surgical	6,520
Optometrists	307
Physician Assistants	307

(n) For an operational cooperative sickness care plan as described under s. 655.002 (1) (f), Stats., all of the following fees:

1. Per 100 outpatient visits during the last calendar year for which totals are available \$0.11

2. 2.5% of the total annual fees assessed against all of the employed physicians.

3. The following for each of the following employees employed by the operational cooperative sickness plan as of July 1, 2003:

Employed Health Care Persons	July 1, 2003 Fund Fee
Nurse Practitioners	\$ 384
Advanced Nurse Practitioners	537
Nurse Midwives	3,375
Advanced Nurse Midwives	3,528
Advanced Practice Nurse Prescribers	537
Chiropractors	614
Dentists	307
Oral Surgeons	2,301
Podiatrists-Surgical	6,520
Optometrists	307
Physician Assistants	307

(o) For a freestanding ambulatory surgery center, as defined in s. HFS 120.03 (10), per 100 outpatient visits during the last calendar year for which totals are available: \$22.00

(p) For an entity affiliated with a hospital, the greater of \$100 or whichever of the following applies:

1. 7% of the amount the entity pays as premium for its primary health care liability insurance, if it has occurrence coverage.

2. 10% of the amount the entity pays as premium for its primary health care liability insurance, if it has claims-made coverage.

SECTION 3 Ins 17.285 (14) is created to read:

Ins. 17.285 (14) MEMBER AND CONSULTANT COMPENSATION. Council members and consultants shall be paid \$250 per meeting attended or \$250 per report filed by a consultant based on the consultant's review of a file under s. 655.275(5)(b), Stats.

SECTION 4 EFFECTIVE DATE. This rule will take effect on July 1, 2003.

Dated at Madison, Wisconsin, this ____ day of _____ 2003.

Jorge Gomez
Commissioner of Insurance

<div style="text-align: right; margin-bottom: 10px;"> <input type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL </div> FISCAL ESTIMATE DOA-2048 N		2002 Session			
		LRB or Bill No./Adm. Rule No. Ins. 17.01, 17.28			
		Amendment No. if Applicable			
Subject Relating to annual Patients Compensation Fund fees for fiscal year 2003-2004					
Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation. <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width: 60%; padding: 5px; vertical-align: top;"> <input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation </td> <td style="width: 40%; padding: 5px; vertical-align: top;"> <input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs </td> </tr> </table>			<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs	
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Local: <input type="checkbox"/> No local government costs <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; vertical-align: top; border-right: 1px solid black; padding: 5px;"> 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </td> <td style="width: 33%; vertical-align: top; border-right: 1px solid black; padding: 5px;"> 3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </td> <td style="width: 34%; padding: 5px;"> 5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts </td> </tr> </table>			1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
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Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Ch. 20 Appropriations			
Assumptions Used in Arriving at Fiscal Estimate <p>The Patients Compensation Fund (Fund) is a segregated fund. Annual Fund fees are established to become effective each July 1, based on actuarial estimates of the Fund's needs for payment of medical malpractice claims. The proposed fees were approved by the Fund's Board of Governors at its February 26, 2003 meeting.</p> <p>There is no effect on GPR.</p> <p>Estimated revenue from fees, for fiscal year 2003-2004, is approximately \$28.8 million, which represents a 5% increase to fiscal year, 2002-2003 fee revenue.</p>					
Long-Range Fiscal Implications None					
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; border-bottom: 1px solid black; padding: 5px;"> Agency/Prepared by: (Name & Phone No.) PCF/Theresa Wedekind (608)266-0953 </td> <td style="width: 30%; border-bottom: 1px solid black; padding: 5px; text-align: center;"> Authorized Signature/Telephone No. (608) 266-0102 </td> <td style="width: 30%; border-bottom: 1px solid black; padding: 5px; text-align: center;"> Date April 1, 2003 </td> </tr> </table>			Agency/Prepared by: (Name & Phone No.) PCF/Theresa Wedekind (608)266-0953	Authorized Signature/Telephone No. (608) 266-0102	Date April 1, 2003
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